

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KENNETH E. BAPTISTE,  
Plaintiff,  
v.  
B. MARTINEZ, et al.,  
Defendants.

Case No. [19-cv-06551-HSG](#)

**ORDER DENYING RENEWED  
REQUEST FOR APPOINTMENT OF  
COUNSEL**

Re: Dkt. No. 16

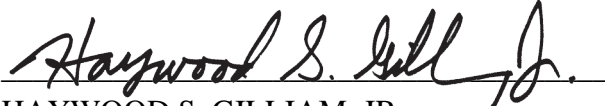
Plaintiff, an inmate at California Training Facility – Central (“CTF”), filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. Now pending before the Court is plaintiff’s renewed request for appointment of counsel. Dkt. No. 16. The Court denied plaintiff’s original request for appointment of counsel on November 6, 2019 for lack of exceptional circumstances without prejudice to *sua sponte* appointing counsel should circumstances so require. Dkt. No. 6 at 7-8. On March 17, 2020, defendants answered the complaint, as required by Fed. R. Civ. P. 8, by filing a waiver of reply, as allowed by 42 U.S.C. § 1997e(g). Dkt. No. 15. Defendants also filed a jury demand to preserve their right to a jury trial on any issue triable by right by a jury by filing a jury demand, as required by Fed. R. Civ. P. 38(b). Dkt. No. 15. Plaintiff describes the waiver of reply and jury demand as an “extraordinary development” that requires appointment of counsel and, on this basis, seeks reconsideration of the Court’s earlier denial of appointment of counsel. Dkt. No. 16 at 1. The filing of a waiver of reply and jury demand is required by the Federal Rules of Civil Procedure. The filing is not an extraordinary development and it does not constitute the type of exceptional circumstances that justify appointment of counsel. *See Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984) (decision to request counsel to represent an indigent litigant under § 1915 is within “the sound discretion of the trial court and is granted only in exceptional

1 circumstances.”). The Court DENIES plaintiff’s renewed request for appointment of counsel.  
2 This denial is without prejudice to the Court’s *sua sponte* appointment of counsel at a future date  
3 should the circumstances of this case so warrant.

4 This order terminates Dkt. No. 16.

5 **IT IS SO ORDERED.**

6 Dated: 4/30/2020

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8 HAYWOOD S. GILLIAM, JR.  
9 United States District Judge  
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